

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.2312 Facility; plan of operation; preparation, approval, review, and revision; required provisions; application of plans to insureds; retrospective evaluation of premiums and loss and expense experience.

Sec. 2312. (1) A plan of operation of the facility shall be prepared by the board of governors and shall be subject to the approval of the commissioner. The commissioner shall review the plan of operation on an ongoing basis, and the plan shall be subject to revision at the request of the commissioner at any time.

(2) The plan of operation shall provide for all of the following:

(a) Appointment by the board of governors of 1 or more servicing carriers, subject to the approval of the commissioner. Appointments may be rescinded for cause by either the board subject to the approval of the commissioner, or by the commissioner.

(b) Creation of servicing carrier performance standards including all of the following:

(i) Sufficient personnel to provide support for safety management services offered by the plan.

(ii) Providing for sufficient personnel for claims adjustment.

(c) Agreements among all insurers authorized to write worker's compensation insurance in this state with respect to the equitable apportionment among them of worker's compensation insurance which may be afforded applicants who are in good faith entitled to, but who are unable to procure such insurance through ordinary methods.

(d) Payment of commissions to producing agents not to exceed 5% of a total premium.

(e) Creation of 3 rating plans as follows:

(i) Rating plan "A" which shall provide coverage for insureds who have a demonstrated accident frequency problem, who have a measurably adverse loss ratio over a period of years, or who have demonstrated an attitude of noncompliance with safety requirements. The commissioner shall approve rates for rating plan A which shall be adequate to cover losses and which shall not be excessive, inadequate, or unfairly discriminatory. This plan shall contain a system of surcharges established by the board of governors and approved by the commissioner.

(ii) Rating plan "B" which shall provide coverage to those employers who apply for worker's compensation insurance in the facility and are either self-insured or a member of a self-insurance group. This plan shall be established by the board of governors of the facility and approved by the commissioner. The commissioner shall convene and consult with an advisory organization including representatives of self-insureds and group self-insureds prior to approving rating plan "B". The recommendations of the advisory organization shall be given reasonable consideration by the commissioner. The commissioner shall approve rates for rating plan B which shall be adequate to cover losses and which shall not be excessive, inadequate, or unfairly discriminatory.

(iii) Rating plan "C" which shall provide coverage to all other insureds of the facility. Rating plan "C" shall not contain any surcharge system. The commissioner shall approve rates for rating plan C that are set through the lower of either of the following methods:

(A) By using 20% of the loss experience of insurers from employers while participants in rating plan C and 80% of the statewide loss experience of all insurers writing worker's compensation insurance in this state.

(B) Through the use of rates adequate to cover losses and which shall not be excessive, inadequate, or unfairly discriminatory.

(f) Prompt and fair hearings for purposes of section 2350.

(3) The application of the plans created under subsection (2)(e) to insureds shall be as determined by the commissioner. The plans shall be applied to insureds regardless of the number of employees or amount of payroll of the insured.

(4) Retrospective evaluation of premiums and loss and expense experience of insureds within each rating plan under subsection (2)(e) shall be performed by the board of governors, in a manner approved by the commissioner. If this evaluation indicates that a return of a portion of premiums is in order, then such a return shall be accomplished, subject to the approval of the commissioner.

History: Add. 1982, Act 8, Eff. Jan. 1, 1983;—Am. 1990, Act 137, Eff. June 29, 1990;—Am. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

"Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

Popular name: Act 218